

A-Engrossed
Senate Bill 44

Ordered by the Senate April 7
Including Senate Amendments dated April 7

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Extends sunset for tax credit for university venture development fund contributions. **Provides that tax credit is to be claimed in one tax year and provides for carryforward of unused amount of credit. Increases amount of credit allowed to taxpayer. Increases amount of total outstanding contributions and corresponding tax credit certificates allowed. Requires universities with university venture development funds to achieve annual agreement for allocation of available contribution amount. Transfers annual reporting requirements from participating universities to Higher Education Coordinating Commission.**

Applies to tax years beginning on or after January 1, 2016.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to a tax credit for university venture development fund contributions; creating new pro-
3 visions; amending ORS 315.521, 351.692, 351.697 and 353.445 and section 27, chapter 913, Oregon
4 Laws 2009; and prescribing an effective date.

5 **Be It Enacted by the People of the State of Oregon:**

6 **SECTION 1.** Section 27, chapter 913, Oregon Laws 2009, as amended by section 43, chapter 750,
7 Oregon Laws 2013, is amended to read:

8 **Sec. 27.** A credit may not be claimed under ORS 315.521 if the initial tax year in which the
9 credit would otherwise be allowed begins on or after January 1, [2016] **2024**.

10 **SECTION 2.** ORS 315.521 is amended to read:

11 315.521. (1) There shall be allowed a credit against the taxes that are otherwise due under ORS
12 chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318, for amounts **not to**
13 **exceed \$1 million per taxpayer per tax year that are contributed in the tax year** to a university
14 venture development fund established under ORS 351.697, to the extent the university that estab-
15 lished the fund issued a tax credit certificate to the taxpayer.

16 (2) The total amount of the credit allowed to a taxpayer shall equal 60 percent of the amount
17 stated on the tax credit certificate. [*Except as provided in subsection (3) of this section, the amount*
18 *of the credit allowed in any one tax year shall equal 20 percent of the amount actually contributed to*
19 *the fund. The credit shall be claimed in three consecutive tax years beginning with the year in which*
20 *the credit is initially allowed.*]

21 (3) The credit allowed under this section may not exceed [*\$50,000 or*] the tax liability of the
22 taxpayer for the tax year.

23 **(4) Any tax credit otherwise allowable under this section which is not used by the tax-**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 payer in a particular year may be carried forward and offset against the taxpayer's tax li-
 2 ability for the next succeeding tax year. Any credit remaining unused in such next
 3 succeeding tax year may be carried forward and used in the second succeeding tax year, and
 4 likewise, any credit not used in that second succeeding tax year may be carried forward and
 5 used in the third succeeding tax year, but may not be carried forward for any tax year
 6 thereafter.

7 [(4)] (5) In the case of a credit allowed under this section for purposes of ORS chapter 316:

8 (a) A nonresident shall be allowed the credit in the same manner and subject to the same limi-
 9 tations as a resident. However, the credit shall be prorated using the proportion provided in ORS
 10 316.117.

11 (b) If a change in the tax year of a taxpayer occurs as described in ORS 314.085 or if the De-
 12 partment of Revenue terminates the taxpayer's tax year under ORS 314.440, the credit shall be
 13 prorated or computed in a manner consistent with ORS 314.085.

14 (c) If a change in the status of a taxpayer from resident to nonresident or from nonresident to
 15 resident occurs, the credit shall be determined in a manner consistent with ORS 316.117.

16 [(5)] (6) A taxpayer claiming a credit under this section shall add to federal taxable income for
 17 Oregon tax purposes any amount that is deducted for federal tax purposes and that also serves as
 18 the basis for the credit allowed under this section.

19 **SECTION 3.** ORS 351.692 is amended to read:

20 351.692. (1) The State Board of Higher Education shall adopt policies that prescribe the re-
 21 quirements for a venture grant program and the requirements that a grant applicant must meet in
 22 order to receive grant moneys from a university venture development fund, including requirements:

23 (a) That a grant recipient remain within this state for at least five years following the receipt
 24 of a grant or repay the grant plus interest;

25 (b) That each university that establishes a university venture development fund report amounts
 26 of tax credit certificates issued by the university and maintain records of income realized by the
 27 university as the result of grants made from the fund and records of amounts paid to the General
 28 Fund; and

29 (c) Under which the Oregon University System is to maintain records and issue directions to
 30 universities that have established university venture development funds relating to when universi-
 31 ties must cease issuing certificates, in order to ensure that the total amount owed [*by the public*
 32 *universities listed in ORS 352.002*] to the General Fund at any one time under ORS 351.697 (6) does
 33 not exceed [~~\$6~~] **\$25** million.

34 (2) The governing board of a public university with a governing board listed in ORS 352.054
 35 shall adopt a policy that prescribes the requirements for a venture grant program and the require-
 36 ments that a grant applicant must meet in order to receive grant moneys from the university ven-
 37 ture development fund operated by the university, including requirements:

38 (a) That a grant recipient remain within this state for at least five years following the receipt
 39 of a grant or repay the grant plus interest;

40 (b) That the university report amounts of tax credit certificates issued by the university and
 41 cease issuing certificates until the total amount owed [*by the public universities listed in ORS*
 42 *352.002*] to the General Fund at any one time under ORS 351.697 (6) does not exceed [~~\$6~~] **\$25** million;
 43 and

44 (c) That the university maintain records of income realized by the university as the result of
 45 grants made from the fund and records of amounts paid to the General Fund.

1 **SECTION 4.** ORS 353.445 is amended to read:

2 353.445. The Oregon Health and Science University Board of Directors shall adopt a policy that
3 prescribes the requirements for a venture grant program and the requirements that a grant appli-
4 cant must meet in order to receive grant moneys from the university venture development fund op-
5 erated by Oregon Health and Science University, including requirements:

6 (1) That a grant recipient remain within this state for at least five years following the receipt
7 of a grant or repay the grant plus interest;

8 (2) That the university report amounts of tax credit certificates issued by the university and
9 cease issuing certificates until the total amount owed to the General Fund [*by the university*] at any
10 one time under ORS 351.697 (6) does not exceed [~~\$2.4~~] **\$25** million; and

11 (3) That the university maintain records of income realized by the university as the result of
12 grants made from the fund and records of amounts paid to the General Fund.

13 **SECTION 5.** ORS 351.697 is amended to read:

14 351.697. (1) Each university listed in ORS 352.002 and Oregon Health and Science University
15 may elect to establish a university venture development fund as provided in this section for the
16 purpose of facilitating the commercialization of university research and development. A university
17 shall direct that the university venture development fund be administered, in whole or in part, by
18 the university or by the university's affiliated foundation.

19 (2) The purposes of a university venture development fund are to provide:

20 (a) Capital for university entrepreneurial programs;

21 (b) Opportunities for students to gain experience in applying research to commercial activities;

22 (c) Proof-of-concept funding for transforming research and development concepts into commer-
23 cially viable products and services; **and**

24 (d) Entrepreneurial opportunities for persons interested in transforming research into viable
25 commercial ventures that create jobs in this state[; *and*].

26 [*(e) Tax credits for contributors to university research commercialization activities.*]

27 (3) Each university that elects to establish a university venture development fund shall:

28 (a) Notify the Department of Revenue of the establishment of the fund;

29 (b) Either directly or through its affiliated foundation, solicit contributions to the fund and re-
30 ceive, manage and disburse moneys contributed to the fund;

31 (c) Subject to ORS 315.521 [(1)], 351.692 and 353.445 [(3)], issue tax credit certificates to con-
32 tributors to the fund in the amount of the contributions;

33 (d) Establish a grant program that meets the requirements for a venture grant program under
34 policies adopted under ORS 351.692 by the State Board of Higher Education or the governing board
35 of a public university with a governing board listed in ORS 352.054 or under policies adopted by the
36 Oregon Health and Science University Board of Directors under ORS 353.445; [*and*]

37 (e) Subject to available moneys from the fund, provide qualified grant applicants with moneys
38 for the purpose of facilitating the commercialization of university research and development[.]; **and**

39 **(f) In collaboration with other universities that have elected to establish a university**
40 **venture development fund under this section, achieve an annual agreement for the allocation**
41 **of the contribution limit set out in ORS 351.692 and 353.445.**

42 (4) Except as provided in subsection (5) of this section, moneys in a university venture devel-
43 opment fund shall be disbursed only as directed by a university.

44 (5) A university or its affiliated foundation may charge its customary administrative assessment
45 to manage its university venture development fund in an amount not to exceed three percent of the

1 fund's average balance during the fiscal year of the university or its affiliated foundation. The ad-
2 ministrative assessment may be paid from the assets in the fund. Except as authorized by law, no
3 other fees or indirect costs shall be charged against the university venture development fund or any
4 associated grants or other disbursements from the fund.

5 (6) A university that has established a university venture development fund shall monitor the
6 use of grants made from the fund and identify the income realized by the university as the result
7 of the use of the grants. Income consists of cash realized from royalties, milestone and license fee
8 payments and cash from the sale of equity. The university shall cause the transfer of 20 percent of
9 the income realized from the grants to the General Fund, but not to exceed the amount of the tax
10 credits issued by the university as a result of contributions to its university venture development
11 fund. Immediately upon deposit of the transferred amount into the General Fund, the university may
12 issue new tax credits to equal the transferred amount.

13 (7) *[A university]* **Not later than September 30 of each year the Higher Education Coordi-**
14 **nating Commission shall gather the information described in this subsection from every**
15 **university** that has established a university venture development fund **and** shall report annually to
16 the Legislative Assembly or, if the Legislative Assembly is not in session, to the interim legislative
17 committees on revenue. The report shall *[be at the end of the fiscal year of the university or of its*
18 *affiliated foundation and]* provide information for *[that]* **the previous** fiscal year. The *[university]*
19 **commission** shall include in the report the following information pertaining to *[its]* university ven-
20 ture development *[fund]* **funds:**

- 21 (a) The amount of donations received for the *[fund]* **funds;**
22 (b) The amount of income received from the *[fund]* **funds;**
23 (c) The amount of disbursements and grants paid from the *[fund]* **funds;**
24 (d) The amount of income and royalties received from disbursements from the *[fund]* **funds;** and
25 (e) The amount of moneys transferred from the *[fund]* **funds** to the General Fund.

26 **SECTION 6. The amendments to ORS 315.521, 351.692, 351.697 and 353.445 by sections 2**
27 **to 5 of this 2015 Act apply to tax years beginning on or after January 1, 2016.**

28 **SECTION 7. This 2015 Act takes effect on the 91st day after the date on which the 2015**
29 **regular session of the Seventy-eighth Legislative Assembly adjourns sine die.**

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